IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

FRIDAY, THE 5TH JANUARY 2007 / 15TH PAUSHA 1928

WP(C).No. 551 OF 2007 (N)

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PETITIONER:

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THE KERALA KHADI & VILLAGE INDUSTRIES
ASSOCIATION, AVANISSERY, TRICHUR,
PIN- 680 313, REPRESENTED BY ITS SECRETARY,
V.KESAVAN.

BY ADV. SRI.R.MURALIDHARAN (AROOR)

RESPONDENTS:

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1. COMMERCIAL TAX OFFICER,
KVAT CIRCLE-II, COMMERCIAL TAXES, TRICHUR.

2. INTELLIGENCE INSPECTOR,
SQUAD NO.I, O/O.THE INSP.ASST. COMMISSIONER (INT.)
COMMERCIAL TAXES, KASARAGOD.

3. THE INSPECTING ASSISTANT COMMISSIONER
(INTELLIGENCE), COMMERCIAL TAXES, KASARAGOD.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R. RAMAN, J.

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W.P.(C) NO. 551 OF 2007

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DATED THIS, THE 5TH DAY OF JANUARY, 2007

J U D G M E N T

Petitioner challenges Ext.P4, P5 and P7 notices issued by the second respondent under Section 47(2) of Kerala Value Added Tax Act. According to the petitioner, he is a charitable institution which has been dealing with khadi products since 1957 onwards and alleging that the transported goods are not khadi, which are liable to be exempted, they were detained at the godown of the transporter. Petitioner was issued with Ext. P4 and P5 notices under Section 47(2) of the KVAT Act, noting certain irregularities. The suspicion entertained is that the goods transported is not khadi and is a different item namely, carpets. According to the petitioner, carpet is a khadi product which is not liable to be taxed and he has been dealing with khadi goods as a charitable institution since 1957. Ext.P6 is a reply submitted by the petitioner dated 5.12.2006. Ext.P6(2) is a communication from Gujarat Khadi Gramodyog Vastragar, the consignee, confirming that they have dispatched the goods in question which are khadi

products. A certificate to that effect is also issued under dated 4.11.2006. However, by Ext.P7 the Inspecting Assistant Commissioner (Intelligence), Commercial Taxes, Kasaragod has requested the petitioner to remit security deposit for the two consignments, taking the view that this is covered by Entry 27. Though the petitioner has a contention that the same will fall under HSN Code 6006 as per Entry 51 of the First Schedule the same was not accepted by the Department.

2. Heard the learned Government Pleader also. The question as to whether the product in question is an exempted product or not is therefore to be decided in accordance with law. Now that the goods are detained in the godown of the transporter. In such circumstances, there will be a direction that the Inspecting Assistant Commissioner may retain samples of the product six in number for the purpose of further enquiry and the goods shall be allowed to be transported to the premises of the petitioner on his furnishing a self bond without sureties. Petitioner shall not sell the goods for a period of three months within which time, the enquiry shall be completed by the authorities.

The writ petition is disposed of as above.

P.R. RAMAN,
JUDGE.

knc/-